

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: SU, et al.

Application Serial No.: 09/416,267

Group Art Unit: 1646

Filed: October 12, 1999

Examiner: Mertz, P.

Title: Human Cytokine Polypeptide

Atty. Docket No. PF270P1

**DECLARATION OF JOSEPH J. KENNY
REGARDING PERMANENCE AND
AVAILABILITY OF ATCC DEPOSIT NO. 97486**

Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Agent for the above-identified Applicants in the above-identified patent application, declare and state that:

1. ATCC Deposit No. 97486 was deposited with the American Type Culture Collection (ATCC), 10801 University Boulevard, Manassas, VA 20110-2209, U.S.A. on March 19, 1996, in compliance with the provisions of the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

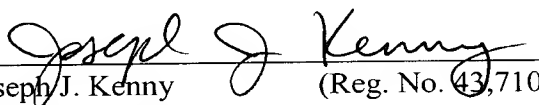
2. I hereby assure the United States Patent and Trademark Office and the public that: (a) all restrictions on the availability to the public of a sample of the above-mentioned deposited plasmid will be irrevocably removed upon issuance of a United States patent of which the plasmid is a subject; (b) the material has been deposited under conditions that assure that access to the material will be available during the pendency of the patent

application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122; and (c) the above-mentioned deposited plasmid will be maintained for a period of at least five years after the most recent request for the furnishing of a sample of the plasmid was received by the ATCC and, in any case, for a period of at least 30 years after the date of deposit or for the enforceable life of such patent, whichever is longer.

3. I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that I make these statements with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Date: March 2, 2001


Joseph J. Kenny (Reg. No. 43,710)
Agent for Applicants

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MMW/JJK/BM/lcc